

**Introduced by Senators Steinberg and De León**May 14, 2014

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Senate Resolution No. 43—Relative to the Standing Rules of the Senate for the 2013–14 Regular Session.

1     *Resolved by the Senate of the State of California*, That the  
2     Standing Rules of the Senate for the 2013–14 Regular Session are  
3     amended as follows:

4     First—That Rule 12.3 is amended to read:

5  
6                     *Committee on Legislative Ethics*

7     12.3. (a) (1) The Committee on Legislative Ethics is hereby  
8     created. The committee shall be appointed by the Committee on  
9     Rules and shall consist of six Senators, at least two of whom are  
10    members of the political party having the greatest number of  
11    members in the Senate and at least two of whom are members of  
12    the political party having the second greatest number of members  
13    in the Senate. The members of the committee shall serve two-year  
14    terms. The President pro Tempore and the Minority Floor Leader  
15    shall serve as ex officio, nonvoting members of the committee. *A*  
16    *member of the Committee on Rules shall not be appointed to the*  
17    *committee.*

18    (2) The Committee on Rules shall select a Chair and a Vice  
19    Chair, who may not be members of the same political party. The  
20    Chair may not serve more than two consecutive two-year terms,  
21    and the Committee on Rules shall select a successor who is not a  
22    member of the same political party as the immediately previous  
23    Chair.

24    (3) Vacancies in the committee shall be filled within 30 days  
25    by the Committee on Rules for the remainder of a term.

1 (4) If a complaint is filed against a member of the committee,  
2 the Committee on Rules shall temporarily replace the member  
3 with a Senator of the same political party, who shall serve until  
4 the complaint is dismissed by the committee or the Senate takes  
5 action as it deems appropriate, whichever occurs earlier.

6 (5) The Committee on Rules, upon the recommendation of the  
7 Committee on Legislative Ethics, ~~shall~~ *may retain or* appoint a  
8 Chief Counsel to assist the committee in carrying out its functions.  
9 The staff of the committee shall be considered permanent and  
10 professional, and shall perform their duties in a nonpartisan  
11 manner. ~~No Neither~~ *Neither* staff of the committee ~~may~~, *nor persons*  
12 *currently contracted to provide services for the committee, shall*  
13 *engage in partisan activities regarding a Senate or Assembly*  
14 *election campaign. The committee may retain independent counsel*  
15 *when necessary for specific investigations.*

16 (6) (A) *The Committee on Rules, upon the recommendation of*  
17 *the Committee on Legislative Ethics, shall appoint an ethics*  
18 *ombudsperson to facilitate the receipt of information about*  
19 *potential ethical violations, and to assist the Senate in providing*  
20 *remedies for retaliatory conduct, to ensure that an informant or*  
21 *complainant does not suffer adverse consequences with respect to*  
22 *his or her employment in violation of paragraph (1) of subdivision*  
23 *(u). Remedies for retaliatory conduct pursuant to this rule may*  
24 *include back pay and reinstatement.*

25 (B) *The ombudsperson shall be accessible to Senators, officers*  
26 *and employees of the Senate, and members of the public who wish*  
27 *to provide information or seek guidance about ethical standards*  
28 *or possible violations before filing a formal complaint pursuant*  
29 *to subdivision (c). All communications made pursuant to this*  
30 *subparagraph shall be confidential between the informant or*  
31 *complainant and the ombudsperson. In appropriate cases,*  
32 *especially where repeated or systematic violations appear to have*  
33 *occurred, the ombudsperson may refer the information to the Chair*  
34 *of the Committee on Rules, the Chair of the Committee on*  
35 *Legislative Ethics, the Secretary of the Senate, or all three;*  
36 *however, the identity of the informant or complainant shall be kept*  
37 *confidential unless that person otherwise consents.*

38 (C) *The Committee on Legislative Ethics shall maintain a public*  
39 *hotline telephone number for purposes of contacting the*  
40 *ombudsperson. Complaints received through the hotline shall be*

1 *considered informal complaints, and the nature and existence of*  
 2 *the complaints shall be kept confidential.*

3 (b) The committee shall do all of the following:

4 (1) The committee shall formulate and recommend, for adoption  
 5 by the Senate, standards of conduct for Senators and officers and  
 6 employees of the Senate in the performance of their legislative  
 7 responsibilities. The Ethics Manual for Members, Officers, and  
 8 Employees of the United States House of Representatives, as  
 9 prepared by the Staff of the Committee on Standards of Official  
 10 Conduct, 102nd Congress Second Session (United States  
 11 Government Printing Office, Washington, 1992), the Code of  
 12 Ethics (Article 2 (commencing with Section 8920) of Chapter 1  
 13 of Part 1 of Division 2 of Title 2 of the Government Code), and  
 14 Joint Rule 44 shall serve as guides in the formulation of the  
 15 standards of conduct.

16 (2) At the request of any Senator or officer or employee of the  
 17 Senate, the committee shall provide an advisory opinion with  
 18 respect to the standards of conduct of the Senate on the general  
 19 propriety of past, current, or anticipated conduct of that Senator,  
 20 officer, or employee. The opinion shall be rendered within 21 days  
 21 unless the Chair and Vice Chair agree otherwise. The committee  
 22 may, with appropriate deletions to ensure the privacy of the  
 23 individuals concerned, publish the advisory opinions for the  
 24 guidance of other Senators, officers, or employees.

25 (3) The committee shall develop, issue, and annually update a  
 26 clear, informative, and usable manual for the Senate based on the  
 27 standards of conduct adopted by the Senate, including any advisory  
 28 opinions published pursuant to paragraph (2).

29 (4) The committee shall conduct periodic workshops, at least  
 30 once each calendar year, for Senators and officers and employees  
 31 of the Senate, including workshops specifically designed for newly  
 32 elected Senators and newly appointed officers and employees. At  
 33 least once in each biennial session, each Senator, and each officer  
 34 or employee of the Senate ~~who is a designated employee under~~  
 35 ~~the Senate Conflict of Interest Code~~, shall attend one of these  
 36 workshops. The workshops shall include, but not be limited to, a  
 37 comprehensive review of all applicable statutes and Senate rules.  
 38 *At least once in each biennial session, each Senator shall also*  
 39 *attend an individual training or review session conducted by the*  
 40 *ombudsperson.*

1 (5) After adoption by the Senate of the standards of conduct,  
2 the committee shall receive and review complaints alleging  
3 violations of the standards of conduct by Senators, or officers or  
4 employees of the Senate, in accordance with the procedures  
5 specified in subdivisions (e) to (s), inclusive *this rule*.

6 (6) The committee shall maintain a record of its investigations,  
7 hearings, and other proceedings. All *information, testimony,*  
8 records, complaints, documents, and reports filed with, submitted  
9 to, or made by the committee, and all records and transcripts of  
10 any investigations or hearings of the committee, shall be  
11 confidential and ~~may~~ *shall* not be open to inspection by any person  
12 other than a member of the committee ~~or, the staff of the~~  
13 committee, ~~or any person engaged by contract or otherwise to~~  
14 ~~perform services for the committee,~~ except as otherwise specifically  
15 provided for in this rule. Any member of the committee or any  
16 person on the staff of the committee who, *during the person's*  
17 *tenure with the committee or anytime thereafter, and without*  
18 *authorization,* discloses ~~any,~~ *by writing, verbal communication,*  
19 *or conduct, or reveals in any way, in whole, in part, or by way of*  
20 *summary, any information, testimony, record, complaint, document,*  
21 *report, or transcript that is confidential shall be subject to discipline.*  
22 *In the case of a contract for the performance of services for the*  
23 *committee, the contract shall expressly prohibit any party to the*  
24 *contract from, without authorization, disclosing, by writing, verbal*  
25 *communication, or conduct, or from revealing in any way, in whole,*  
26 *in part, or by way of summary, any information, testimony, record,*  
27 *complaint, document, report, or transcript that is confidential.*  
28 The committee may, by a majority vote of the membership of the  
29 committee, authorize the release of any records, complaints,  
30 documents, reports, and transcripts in its possession to the  
31 appropriate enforcement agency if the committee determines that  
32 there is probable cause to believe that the violation or violations  
33 alleged in the complaint would constitute a felony or if the  
34 committee determines that the information is material to any matter  
35 pending before the enforcement agency.

36 (c) (1) Any person may file a *formal* complaint with the  
37 committee that alleges a violation of the standards of conduct. A  
38 *formal complaint does not include information provided to the*  
39 *ombudsperson pursuant to paragraph (6) of subdivision (a), unless*

1 *the person who contacted the ombudsperson elects to file a*  
2 *complaint that complies with this subdivision and subdivision (d).*

3 (2) Except as provided in paragraphs (3) and (4), a complaint  
4 ~~may~~ *shall* not be filed more than 18 months after the date that the  
5 alleged violation occurred.

6 (3) If the committee determines that the person filing the  
7 complaint did not know, or through the exercise of reasonable  
8 diligence could not have known, of the alleged violation within  
9 18 months after the date that the alleged violation occurred, the  
10 complaint may be filed within three years after the date that the  
11 alleged violation occurred.

12 (4) If a complaint is filed within 60 days prior to an election at  
13 which a Senator or officer or employee is a candidate for elective  
14 office, the complaint shall be returned to the person filing the  
15 complaint, and the person shall be informed that the complaint  
16 may be filed with an appropriate enforcement agency and may be  
17 refiled with the committee after the election. The period of time  
18 for filing the complaint shall be extended for 60 days.

19 (5) A complaint ~~may~~ *shall* not be filed if it alleges a violation  
20 that occurred prior to the adoption of the standards of conduct.

21 (d) A *formal* complaint shall satisfy all of the following  
22 requirements:

23 (1) It shall be in writing.

24 (2) It shall state the name *and contact information* of the person  
25 filing the complaint.

26 (3) It shall state the name of Senator, or the name and position  
27 or title of the officer or employee of the Senate, who is alleged to  
28 have committed a violation of the standards of conduct.

29 (4) It shall set forth allegations that, if true, would constitute a  
30 violation of the standards of conduct. The allegations shall be  
31 stated with sufficient clarity and detail to enable the committee to  
32 make a finding pursuant to subdivision (h).

33 (5) It shall state the date of the alleged violation.

34 (6) It shall include a statement that the allegations are true of  
35 the person's own knowledge or that the person believes them to  
36 be true, and ~~shall be signed by the person under penalty of perjury~~  
37 *may include documents in the possession of the party filing the*  
38 *complaint relevant to, or supportive of, his or her allegations.*

39 (e) The committee, on its own motion, two-thirds of the  
40 membership concurring, may initiate a proceeding by filing a

1 complaint that complies with paragraphs (1) to (5), inclusive, of  
2 subdivision (d).

3 (f) The committee shall promptly send a copy of a complaint  
4 to the Senator, or officer or employee of the Senate, alleged to  
5 have committed the violation, who shall thereafter be designated  
6 as the respondent.

7 (g) If a complaint is filed by a person other than the committee,  
8 the Chair and Vice Chair of the committee shall examine the  
9 complaint to determine whether it was filed in accordance with  
10 this rule and any rules of the committee. ~~Within 15~~

11 (h) *Within seven* days after the complaint is filed, the Chair and  
12 Vice Chair shall provide to the committee a copy of the complaint  
13 and their opinion as to whether the allegations in the complaint,  
14 if true, would constitute a violation of the standards of conduct. If  
15 the committee, by a two-thirds vote of its membership, finds that  
16 the allegations, if true, would constitute a violation of the standards  
17 of conduct, the committee shall hold a hearing within 30 days to  
18 conduct a preliminary inquiry. If two-thirds of the membership of  
19 the committee fails to find that the allegations, if true, would  
20 constitute a violation of the standards of conduct, it shall dismiss  
21 the complaint and so notify the person who filed the complaint  
22 and the respondent, and the complaint shall not be made public.

23 ~~(h)~~

24 (i) At the preliminary inquiry, the respondent may respond to  
25 the allegations in the complaint by written statement or oral  
26 testimony. If two-thirds of the membership of the committee finds  
27 that probable cause exists for believing that the respondent  
28 committed a violation of the standards of conduct, the committee  
29 shall issue a count-by-count statement of alleged violations. If  
30 two-thirds of the membership of the committee fails to find that  
31 probable cause exists, the committee shall dismiss the complaint.  
32 In either event, the committee shall immediately notify the  
33 respondent and the person who filed the complaint of its action.  
34 If the committee finds that probable cause exists, the statement of  
35 alleged violations shall be made public within seven days.

36 ~~(i)~~

37 (j) Within 21 days after the issuance of the statement of alleged  
38 violations, the respondent may file an answer that admits or denies  
39 each count. Upon request of the respondent, the committee may  
40 grant the respondent an additional 21 days to respond.

~~(j)~~

(k) Within 60 days after the issuance of the statement of alleged violations, the committee shall hold a disciplinary hearing. If a majority of the membership of each party on the committee fails to find that the respondent committed a violation of the standards of conduct, the committee shall dismiss the complaint. If a majority of the membership of each party on the committee finds by clear and convincing evidence that the respondent committed a violation of the standards of conduct, the committee shall take the following action:

(1) If the respondent is a Senator, it shall hold a hearing to determine an appropriate sanction.

(2) If the respondent is an officer or employee, it shall transmit its findings to the Committee on Rules for appropriate action.

~~(k)~~

(l) (1) At the hearing to determine an appropriate sanction, two-thirds of the membership of the committee shall determine whether the violation is serious or minor.

(2) If the committee determines that a violation is minor or fails to determine that a violation is serious, two-thirds of the membership of the committee (A) shall, if it determines that the violation bears upon the exercise of a right or privilege, recommend that the Committee on Rules deny or limit that right or privilege and shall transmit its findings and recommendation to the Committee on Rules, or (B) shall impose any lesser sanction, *including, but not limited to, issuing a private letter of admonishment for an inadvertent, technical, or otherwise de minimis violation, which shall not be considered discipline.* Within 15 days after the imposition of a lesser sanction, the respondent may appeal the sanction imposed to the Committee on Rules.

(3) If the committee determines that a violation is serious, two-thirds of the membership of the committee shall recommend that the Senate take one or more of the following actions and shall transmit its findings and recommendation to the Senate:

(A) The denial or limitation of any right or privilege, if the violation bears upon the exercise of that right or privilege.

(B) A reprimand for a serious violation.

(C) A censure for a more serious violation.

(D) ~~An~~ *A suspension or expulsion* for a most serious violation.

~~(t)~~

1 (m) The Senate shall, within 15 legislative days after receiving  
2 the findings and recommendation, vote on the recommendation of  
3 the committee. The Senate, by 21 votes, may deny or limit any  
4 right or privilege of, reprimand, or censure the Senator or, by 27  
5 votes, may expel the Senator.

6 ~~(m)~~

7 (n) The committee or Senate may defer any action required by  
8 this rule if other proceedings have been commenced on the same  
9 matter.

10 ~~(n)~~

11 (o) (1) At all hearings, the Chief Counsel of the committee shall  
12 present the case. All relevant and probative evidence ~~is~~ *shall be*  
13 admissible unless it is privileged. Witnesses may be called and  
14 cross-examined by the committee and the respondent, and exhibits  
15 and other documents may be entered into the record. The  
16 respondent ~~has~~ *shall have* the right to be represented by legal  
17 counsel or any other person of his or her choosing.

18 (2) If the committee receives, at any time, any exculpatory  
19 information relating to the alleged violation, the committee shall  
20 make the information available to the respondent. *The committee*  
21 *and the respondent shall comply with requests for discovery*  
22 *consistent with Sections 1054, 1054.1, and 1054.3 of the Penal*  
23 *Code.*

24 ~~(o)~~

25 (p) If the committee determines that the complaint was filed  
26 with malicious intent, it may request that the Committee on Rules  
27 reimburse the expenses incurred by the respondent.

28 ~~(p)~~

29 (q) At any time during the proceedings, the respondent may  
30 admit that he or she committed a violation of the standards of  
31 conduct. If the respondent admits some but not all of the violations  
32 alleged in the complaint or the counts set forth in the statement of  
33 alleged violations, the committee shall find that the admitted  
34 violations constituted a violation of the standards of conduct and  
35 may continue the proceedings to determine whether the other  
36 alleged violations constituted violations of the standards of conduct.  
37 If the respondent admits to all alleged violations, the committee  
38 shall find that the admitted violations constituted a violation of  
39 the standards of conduct, terminate the preliminary inquiry or



1 disciplinary hearing, and take the action required by paragraph (1)  
2 or (2) of subdivision ~~(j)~~ (k).

3 ~~(q)~~

4 (r) Meetings of the committee ~~may~~ *shall* not be open to the  
5 public until the committee finds that probable cause exists for  
6 believing that the respondent committed a violation of the standards  
7 of conduct. Subsequent meetings of the committee or Senate shall  
8 be public, and notice of any meeting shall be published in the  
9 Senate File for four calendar days prior to the meeting.

10 ~~(r)~~

11 (s) If the committee finds that probable cause exists for believing  
12 that the respondent committed a violation of the standards of  
13 conduct, the transcript of any testimony given, or any documents  
14 admitted into evidence, at a public hearing and any report prepared  
15 by the committee subsequent to that finding that states a final  
16 finding or recommendation shall be open to public inspection.

17 ~~(s)~~

18 (t) Upon request of the respondent, the committee may permit  
19 the respondent to inspect, copy, or photograph books, papers,  
20 documents, photographs, or other tangible objects that relate to  
21 the allegations in the complaint. If the committee finds that  
22 probable cause exists for believing that the respondent committed  
23 a violation of the standards of conduct, the committee shall permit  
24 the respondent to inspect, copy, or photograph books, papers,  
25 documents, photographs, or other tangible objects that relate to  
26 the statement of alleged violations.

27 ~~(t)~~

28 (u) (1) A Senator or officer or employee of the Senate ~~may~~ *shall*  
29 not directly or indirectly use or attempt to use his or her official  
30 authority or influence to intimidate, threaten, coerce, command,  
31 or attempt to intimidate, threaten, coerce, or command any person  
32 for the purpose of interfering with the right of that person to file  
33 a complaint with the committee, testify before, or in any way  
34 cooperate with, the committee or any panel.

35 (2) For the purpose of paragraph (1), “use of official authority  
36 or influence” includes promising to confer, or conferring, any  
37 benefit; effecting, or threatening to effect, any reprisal; or taking,  
38 or directing others to take, or recommending, processing, or  
39 approving, any personnel action, including, but not limited to,

1 appointment, promotion, transfer, assignment, performance  
2 evaluation, suspension, or other disciplinary action.

3 (3) Nothing in this subdivision ~~may~~ *shall* be construed to  
4 authorize any person to disclose information the disclosure of  
5 which is otherwise prohibited by law.

6 ~~(u)~~

7 (v) The committee may adopt rules governing its proceedings  
8 not inconsistent with this rule. The provisions of Joint Rule 36  
9 relating to investigating committees apply to the committee to the  
10 extent those provisions are consistent with this rule.

11 ~~(v)~~

12 (w) The powers and procedures set forth in subdivisions (b) to  
13 ~~(u)~~ (v), inclusive, confer independent authority and ~~may~~ *shall* not  
14 be limited or altered by Joint Rule 45.

15 (x) *Where confidentiality is required pursuant to this rule,*  
16 *confidentiality shall be maintained only to the extent that disclosure*  
17 *of the confidential information is not otherwise required by law.*

18 Second—That Rule 13 is amended to read:

19 Committee on Rules  
20

21 13. (a) The Committee on Rules is charged with the general  
22 responsibility for the administrative functioning of the Senate. The  
23 committee has general charge of the books, documents, and other  
24 papers and property of the Senate and shall see that the same are  
25 properly kept, cared for, filed, or otherwise disposed of in  
26 accordance with applicable law and rules. The committee also has  
27 the duties of making studies and recommendations designed to  
28 promote, improve, and expedite the business and procedure of the  
29 Senate and its committees, including investigating committees  
30 consisting wholly or in part of Members of the Senate, and of  
31 proposing any amendments to the rules deemed necessary to  
32 accomplish those purposes.

33 (b) The Committee on Rules shall continue in existence during  
34 any recess of the Legislature until the convening of the next regular  
35 session, and shall have the same powers and duties as while the  
36 Senate is in session. The committee has the authority to fill  
37 vacancies in any Senate committee or in the Senate membership  
38 of any joint committee.

39 (c) The committee and its members shall have and exercise all  
40 of the rights, duties, and powers conferred upon investigating

1 committees and their members by the Joint Rules of the Senate  
2 and Assembly as they are adopted and amended from time to time,  
3 which provisions are incorporated herein and made applicable to  
4 the Committee on Rules and its members.

5 (d) The committee may make available to any Senate or joint  
6 committee, or any Member of the Senate, assistance in connection  
7 with the duties of the committee or other legislative matters as the  
8 personnel resources under the direction of the committee or its  
9 other facilities permit.

10 (e) (1) All employees on the payroll of the Senate are  
11 employees of the Senate and not of individual members, and they  
12 are under the direct control of the Committee on Rules. The  
13 Committee on Rules has general supervision over all employees  
14 of the Senate and the powers and duties to suspend, discipline, or  
15 discharge any employees when necessary. Any insubordination  
16 or inefficiency on the part of any employee shall be reported to  
17 the Committee on Rules.

18 (2) *A Senator or officer or employee of the Senate shall not*  
19 *retaliate against an employee of the Senate for reporting*  
20 *information to the Senate Committee on Rules, the Senate*  
21 *Committee on Legislative Ethics, or any government or law*  
22 *enforcement agency regarding a possible violation of the Senate*  
23 *Standards of Conduct or any state or federal law or regulation,*  
24 *or because the Senator, officer, or employee believes that the*  
25 *employee reported or may report such information, if the employee*  
26 *who reported the information reasonably believed that the*  
27 *information disclosed a violation of the Senate Standards of*  
28 *Conduct or any state or federal law or regulation.*

29 (f) The committee shall make available and furnish to the  
30 Members of the Senate, and the Senate committees, personnel  
31 resources as may be reasonably necessary for the Members and  
32 the committees to carry out their duties.

33 (g) The Committee on Rules constitutes the Committee on  
34 Introduction of Bills and has charge of the engrossment and  
35 enrollment of bills, the contingent expenses of the Senate, and  
36 legislative printing, except insofar as these functions are delegated  
37 to the Secretary of the Senate.

38 (h) The rooms, passages, and buildings set apart for the use of  
39 the Senate are under the direction of the Committee on Rules, and

1 the committee may assign the press desks in the Senate Chamber  
2 to accredited newspaper representatives.

3 (i) Executive communication of nominations sent by the  
4 Governor, or any other entity with the authority to make  
5 appointments, to the Senate for confirmation shall be referred to  
6 the Committee on Rules, unless otherwise ordered by the Senate,  
7 without debate.

8 (j) The Committee on Rules shall, at each regular session,  
9 appoint a Member of the Senate to serve on the Judicial Council  
10 and has the authority during any joint recess to fill any vacancy in  
11 that position that occurs during the recess.

12 (k) When a report of a joint legislative committee is delivered  
13 to the Senate Desk, the Committee on Rules shall refer it to a  
14 standing committee for review and appropriate action.